



DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 501

Adjustment of applicable schedule amount

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury’s Office of Foreign Assets Control (OFAC) is issuing this final rule to make technical amendments to the definition of “applicable schedule amount” in its regulations. In recent years, OFAC has adjusted its civil monetary penalties (CMPs) as required by the Federal Civil Penalties Inflation Adjustment Act, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. While OFAC’s “applicable schedule amount” values are not civil monetary penalties that are required to be adjusted pursuant to such statute, OFAC is making technical changes to this definition to ensure the applicable schedule amount values continue to correspond appropriately to OFAC’s CMPs.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, tel.: 202-622-2480; Assistant Director for Regulatory Affairs, tel.: 202-622-4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website (www.treasury.gov/ofac).

Background

On September 8, 2008, OFAC issued as an interim final rule the "Economic Sanctions Enforcement Guidelines" (Enforcement Guidelines) as appendix A to the Reporting, Procedures and Penalties Regulations at 31 CFR part 501 (73 FR 51933, September 8, 2008). On November 9, 2009, OFAC re-issued as a final rule the Enforcement Guidelines (74 FR 57593, November 9, 2009). OFAC's Enforcement Guidelines provide a general framework for the enforcement of all economic sanctions programs administered by OFAC. Section V.B.2.a.ii. of the Enforcement Guidelines states that the base amount of a proposed civil penalty in a Pre-Penalty Notice shall be the "applicable schedule amount," subject to certain caps noted in that section, where the case is deemed non-egregious and the apparent violation has come to OFAC's attention by means other than a voluntary self-disclosure. Section I.B. of the Enforcement Guidelines provides a definition of "applicable schedule amount."

Separately, as required by the Federal Civil Penalties Inflation Adjustment Act (1990 Pub. L. 101-410, 104 Stat. 890; 28 U.S.C. 2461 note), as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114-74, 129 Stat. 599, 28 U.S.C. 2461 note) (collectively, the FCPIA Act), OFAC has adjusted its CMPs five times since the Federal Civil Penalties Inflation Adjustment Act Improvements Act went into effect on November 2, 2015: an initial catch-up adjustment on August 1, 2016 (81 FR 43070, July 1, 2016), and annual adjustments on February 10, 2017 (82 FR 10434, February 10, 2017), March 19, 2018 (83 FR 11876, March 19, 2018), June 14, 2019 (84 FR 27714, June 14, 2019), and April 9, 2020 (85 FR 19884, April 9, 2020).

OFAC's applicable schedule amount values in the Enforcement Guidelines, while not required to be adjusted pursuant to the FCPIA Act, correspond in certain ways with OFAC's CMPs. As a result, to correspond with OFAC's recent CMP adjustments required by the FCPIA Act, OFAC is now amending the definition of "applicable schedule amount" in section I.B. of appendix A to 31 CFR part 501, to adjust applicable schedule amount values for transactions valued at \$100,000 or more. Specifically, OFAC is amending sections I.B.6. and I.B.7., such that in the case of transactions valued at \$100,000 or more but less than \$200,000, the applicable schedule amount is now \$200,000, and in the case of transactions valued at \$200,000 or more, the applicable schedule amount is now \$307,922, which corresponds with the current maximum CMP amount for a violation of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706, at 1705). These changes are not required pursuant to the FCPIA; however, OFAC is making these changes to ensure the applicable schedule amount values continue to correspond appropriately to OFAC's CMPs as the CMPs are adjusted pursuant to the FCPIA annually. Additionally, OFAC is amending the authorities section of 31 CFR part 501 to shorten citations to conform to *Federal Register* guidance.

Public Participation

Because this final rule imposes no obligations on any person, but only amends OFAC's enforcement policy and procedures based on existing substantive rules, provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Further, this final rule is not a significant regulatory action for purposes of Executive Order 12866. Accordingly, the provisions of Executive Order 13771 are inapplicable. Because no notice of

proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not impose information collection requirements that would require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 31 CFR Part 501

Administrative practice and procedure, Banks, banking, Blocking of assets, Exports, Foreign trade, Licensing, Penalties, Sanctions.

For the reasons set forth in the preamble, the Department of the Treasury’s Office of Foreign Assets Control amends 31 CFR part 501 as follows:

PART 501— REPORTING, PROCEDURES AND PENALTIES REGULATIONS

1. The authority citation for part 501 is revised to read as follows:

Authority: 8 U.S.C. 1189; 18 U.S.C. 2332d, 2339B; 19 U.S.C. 3901–3913; 21 U.S.C. 1901–1908; 22 U.S.C. 287c; 22 U.S.C. 2370(a), 6009, 6032, 7205; 28 U.S.C. 2461 note; 31 U.S.C. 321(b); 50 U.S.C. 1701–1706; 50 U.S.C. 4301–4341; 22 U.S.C. 8501–8551.

Appendix A to Part 501 [Amended]

2. Amend appendix A to part 501 as follows:

a. In section I.B.6., remove “\$170,000” in both places it appears and add in its place “\$200,000” in both places.

b. In section I.B.7., remove “\$250,000” and add in its place “\$307,922”, and remove “\$170,000” and add in its place “\$200,000”.

Dated: August 5, 2020.

Andrea Gacki,
Director, Office of Foreign Assets Control.

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